

## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Maxine Brown Roberts, Project Manager  
Joel Lawson, Associate Director Development Review

**DATE:** October 22, 2013

**SUBJECT:** **REVISED** - BZA 18608, 1500 Independence Avenue, SE

### **I. OFFICE OF PLANNING RECOMMENDATION**

In the September 10, 2013, Hearing Report, the Office of Planning (OP) was unable to make a recommendation on the application as the applicant did not provided all the pertinent information to enable a complete analysis of the proposal. The public hearing was postponed and the applicant has subsequently provided additional information to OP and submitted this information to the record.

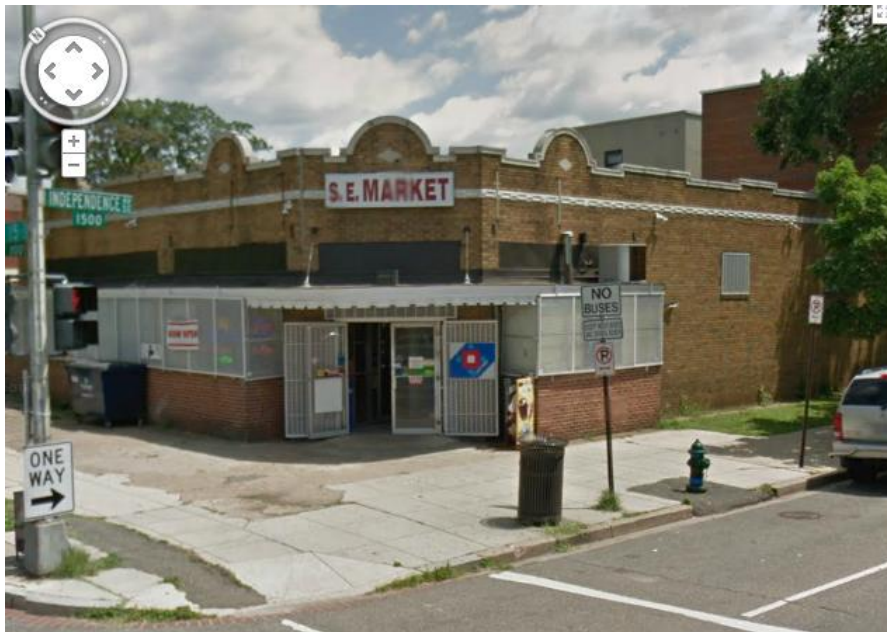
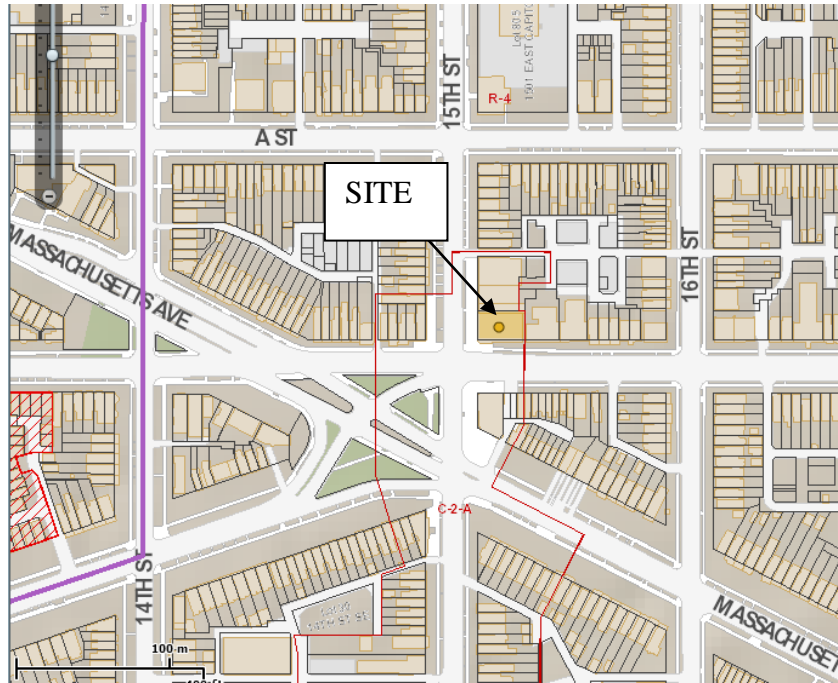
The applicant, Sheldon Shuman and the operator of the grocery store at 1500 Independence Avenue, SE, requests special exception review pursuant to 11 DCMR, §733 for a grocery store with an accessory fast food establishment in the C-2-A district. OP recommends **approval** of the special exception with the following condition:

1. Obtain a Public Space Permit to accommodate the required trash enclosure on public space either along 15<sup>th</sup> Street, SE or Independence Avenue, SE.

### **II. LOCATION AND SITE DESCRIPTION**

<b>Address</b>	1500 Independence Avenue, SE
<b>Legal Description</b>	Square 1072, Lot 0005
<b>Ward/ANC</b>	6/ANC-6B
<b>Zoning</b>	C-2-A
<b>Lot Characteristics</b>	Rectangular property with an area of 4,000 square feet (50 ft. x 80 ft.). The property is developed with a 1-story commercial building which currently houses a neighborhood grocery store with an accessory prepared food shop.
<b>Adjacent Properties</b>	To the east is a 4-story apartment building in the R-4 zone; to the south is a 2-3 story building housing a dry cleaners and a liquor store and 2-story row houses in the C-2-A zone; to the west is a 1-story commercial building adjacent to row houses in the C-2-A zone; and to the north is a property which is being redeveloped in the C-2-A zone.
<b>Neighborhood Character</b>	Around the intersection of 15 <sup>th</sup> Street and Independence Avenue are small, neighborhood commercial uses and rowhouses in the C-2-A zone. Generally, the wider neighborhood has 2- and 3-story row houses interspersed with apartments in the R-4 zone.

<b>Historic Preservation:</b>	Not within a historic district.
-------------------------------	---------------------------------



**LOCATION MAPS**

### **III. APPLICATION IN BRIEF**

The property currently houses a grocery store and an accessory prepared food shop. The ownership of the business has changed and the new owner is proposing to change the accessory prepared food

shop use to a fast food establishment. The change to the accessory use would not necessitate any external changes to the building. The fast food establishment would occupy 150 square feet of space while the grocery store would retain its 2,000 square feet. The fast food to be served would include: hot, cold, and breakfast sandwiches; hamburgers; french fries; fried chicken and fried fish.

#### **IV. ZONING REQUIREMENTS and REQUESTED RELIEF**

The grocery store use is permitted as a matter-of-right in the C-2-A district but 11 DCMR, §733 require special exception review for fast food establishment in the C-2-A district.

#### **V. OP ANALYSIS**

##### **1. Special Exception Relief to permit a fast food establishment in the C-2-A District**

Fast food establishments are permitted in a C-2-A District subject to the provisions of § 733.

*733.2 No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District unless separated therefrom by a street or alley.*

The western property line is also the boundary between the C-2-A and the R-4, residence district. The property immediately to the west is developed with an apartment building. Therefore, the requirement of this section cannot be met but can be waived as allowed under § 773.12.

*733.3 If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building that extends for the full width of its lot.*

None of the lot lines of the property abut an alley.

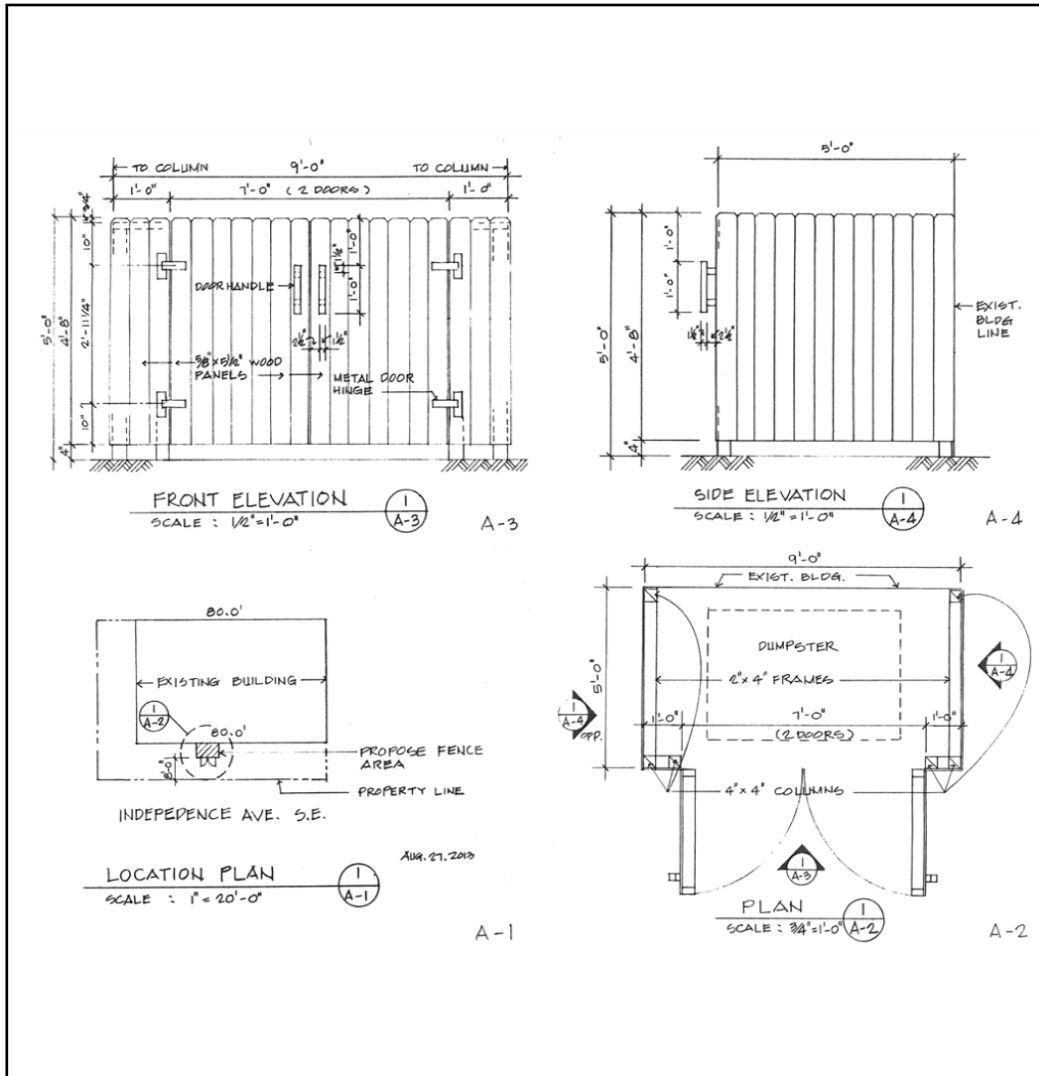
*733.4 Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District.*

Currently, a trash dumpster that serves the site is located on the 15<sup>th</sup> Street side of the building within public space. Since the building occupies nearly 100% of the lot, the dumpster cannot be accommodated on the lot, unless it is incorporated into the existing building footprint. The applicant has informed OP that they would provide an enclosure for the trash dumpster within public space on the Independence Avenue side of the property if approved by DDOT's Public Space Committee (See maps below).



The proposal submitted to the Public Space Committee is for a wooden, 9-feet wide, 5-feet deep, and 6-feet high enclosure. The applicant has requested a modification to the requirement for a brick enclosure and to instead provide a wooden enclosure (see below). The applicant states that since the enclosure would be built on public space, it is preferable that it be of a less permanent nature

and be easier to remove if in the future the need for a trash enclosure becomes unnecessary. OP is supportive of this modification, subject to review and approval by the Public Space Committee.



**733.5** *The use shall not include a drive-through.*

No drive through is proposed.

**733.6** *There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone district boundary line for a Residence District.*

The entrance for customers is located where the building fronts on the intersection of Independence Avenue and 15<sup>th</sup> Street, wholly within the commercial district.

**733.7     *The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions.***

The existing grocery store and prepared food shop at this location currently exists in the Capitol Hill neighborhood and OP is not aware of any adverse impacts concerning the existing operation. It is envisioned that the grocery store and the fast food establishment would operate in the same manner.

The hours of operation would continue to be 8:00 am to 9:00 pm Monday to Friday and 9:00 am to 9:00 pm on Sundays. The applicant states that deliveries would be made Mondays through Thursdays between the hours of 9:00 am and 3:00 pm and would occur from either Independence Avenue or 15<sup>th</sup> Street. Trash collection would be on Tuesdays and Thursdays between the hours of 9:00 am and 3:00 pm. The applicant states that these hours would allow these activities to occur when most residents are away at work and therefor lessen any impact from noise.

**733.8     *The use shall provide sufficient off-street parking, but not less than that required by § 2101.1, to accommodate the needs of patrons and employees.***

The parking requirement for the fast food establishment (150 square feet) in the C-2-A zone is 1 space per 300 square feet in excess of 3,000 square feet; therefore, no parking space is required. The parking for the grocery store is grandfathered since the building and use have been in existence prior to 1958.

The grocery store and the proposed fast food establishment are intended to be neighborhood serving uses where most people walk to shop. It is envisioned that this would continue with the addition of the fast food service. Parking is restricted to one hour, (7:00 am to 6:30 pm, Monday-Friday) along 15<sup>th</sup> Street, and for 2 hours (Monday to Friday, 7:00 am to 8:30 pm) along Independence Avenue. Therefore, on-street parking would accommodate the needs of the grocery store and fast food service.

**733.9     *The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions.***

The proposed use would be located in a structure with a long standing history of accommodating a similar type use. It is not anticipated that the existing traffic patterns would be significantly altered due to the inclusion of the fast food establishment.

**733.10    *There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site.***

Deliveries and trash collection are currently made from the parking lane along Independence Avenue and/or 15 Street. Parking is restricted to one hour, (7:00 am to 6:30 pm, Monday-Friday) along 15<sup>th</sup> Street, and for 2 hours (Monday to Friday, 7:00 am to 8:30 pm) along Independence

Avenue. Deliveries and trash pick-up would be scheduled during these restricted times and therefore it is not anticipated that the public rights-of-way would be obstructed.

**733.11** *The Board may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property.*

OP does not suggest any conditions, other than that any approval be conditioned on resolution of the trash enclosure, including review and approval by the Public Space Committee.

**733.12** *The applicant for special exception under this section may request the Board to modify the conditions enumerated on §§ 733.2 through 733.4; provided that the general purposes and intent of this section are complied with.*

The property abuts a residence district and therefore does not meet the requirement of § 773.2. The intent of the requirement is to prevent any negative impacts from noise, sounds, odors, lights, and hours of operations on adjacent residents. The applicant has demonstrated that the proposed use would not negatively impact the residents to the east of the property.

The applicant has also requested a modification to the requirement of § 773.4 for the trash receptacle to be provided on-site and be of brick construction. The applicant is requesting instead to provide a wooden trash enclosure, off-site within public space. The off-site, wooden enclosure would satisfy the intent of the requirement to provide a secure place for trash storage and collection.

## **2. § 3104.1, Special Exception General Requirements**

### **i. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?**

The proposal is in harmony with the intent of the regulations and map as this type of use is anticipated in this zone. This is a commercial use in a moderate density commercial district that is in conformance with the specific requirements for such uses.

### **ii. Would the proposal appear to tend to affect adversely, the use of neighboring property?**

The addition of the fast food service should not adversely affect neighboring or abutting properties as most are also commercial uses except for the residential use to the east. The adjacent residential use would not be negatively impacted due to noise, odor or traffic.

## **VI. COMMUNITY COMMENTS**

The property is within ANC-6B. OP is not aware of any actions taken by the ANC regarding the application.

## **VII. COMMENTS OF OTHER DISTRICT AGENCIES**

The application was forwarded to the District Department of Transportation and their report is submitted under separate cover.